

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

SECURITIES AND EXCHANGE  
COMMISSION,

Plaintiff,

v.

NAVELLIER & ASSOCIATES, INC.,  
and LOUIS NAVELLIER,

Defendants.

Civil Action No. 1:17-cv-11633

**DEFENDANTS' OBJECTIONS TO MAGISTRATE JUDGE'S DECEMBER 21, 2018  
ORDER DENYING DEFENDANTS' MOTION TO QUASH PLAINTIFF'S SUBPOENA  
TO NON-PARTY ACA COMPLIANCE GROUP AND MOTION TO STAY  
ENFORCEMENT OF MAGISTRATE JUDGE'S ORDER PENDING DECISION ON  
MOTION FOR RECONSIDERATION**

Pursuant to Rule 72(a) of the Federal Rules of Civil Procedure, Defendants, Navellier & Associates, Inc. ("NAI") and Louis Navellier ("Mr. Navellier") collectively ("Defendants") hereby respectfully object the December 21, 2018 order (Dkt #76) denying Defendants' motion to quash the ACA subpoena. The objections are brought on the grounds that the Magistrate Judge's decision was clearly erroneous and contrary to the law in, among other things, failing to first review *in camera* the subpoenaed ACA documents, which review would have shown the ACA documents to be attorney-client privileged and/or legal work product of NAI's outside counsel, and in erroneously ruling that the ACA documents are not attorney-client privileged and or work product

and should not be produced to the SEC, which has no right or need to have those documents.

Defendants request this Court to issue a stay order, staying production of any ACA documents to the SEC pending a determination by this Court of Defendants' objections to the Magistrate Judge's orders regarding the ACA documents. F.R.C.P. 72(a);<sup>1</sup> 28 U.S.C. §636(b)(1)(A).

The Magistrate Judge did not issue a stay of production to allow Defendants to file their Request for Reconsideration or these Objections. Defendants timely filed a Motion for Reconsideration with the Magistrate Judge, which is pending. (DKT #s 79, 80). The SEC has agreed to a stay of production pending a further court determination of the Motion for Reconsideration and or Objections to this Court. (Exhibit 1) The Magistrate Judge has not yet issued an Order on the reconsideration motion. Out of an abundance of caution, because the fourteen day period to object will run, Defendants have filed these objections to preserve their right to object even though Defendants' Motion for Reconsideration is pending.

In support of their motions, Defendants submit a memorandum, with exhibits, a declaration, and a proposed order.

**LOCAL RULE 7.1 CERTIFICATION**

I certify that counsel for the parties conferred on January 3, 2019 and have attempted in good faith to resolve or narrow the issues raised by this motions, but were unable to do so.

Dated: January 3, 2019

By: /s/ Samuel Kornhauser  
Samuel Kornhauser

---

<sup>1</sup> Plaintiff's and Defendants' counsel stipulated that the underlying motion to quash and for protective order will be brought in this Court rather than in the District of Columbia District Court, but did not stipulate that the law in this Circuit would apply to the subpoena served on ACA, a Washington, D.C. resident.

**CERTIFICATE OF SERVICE**

I hereby certify that this document was filed on this date through the ECF system and will be sent to the registered participants as identified on the Notice of Electronic Filing (NEF) as of this date of this filing.

January 3, 2019

By: Samuel Rolnick  
Samuel Rolnick